IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 27518 of 2005(A)

PETITIONER:

DR.JAYAKUMARI.R.A MADATHIL, MEMANA, OACHIRA P.O. (HIGHER SECONDARY SCHOOL TEACHER).

BY ADV. SRI.D.SOMASUNDARAM

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF HGHER SECONDARY EDUCATION, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.D.ANIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/03/2007, ALONG WITH WPC NO. 27627 OF 2005 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.27518/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DT.28.6.03.

EXT.P2:- COPY OF THE REPRESENTATION DT.20.1.04 SUBMITTED BY THE PETITIONER TO THE EDUCATION MINISTER.

EXT.P3:- COPY OF THE COMMUNICATION DT.27.2.04 TO THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE REPRESENTATION DT.19.5.05 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

/TRUE COPY/

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T.R.RAMACHANDRAN NAIR, J.

W.P.(C).NO.27518 OF 2005

and

W.P.(C).NO.27627 OF 2005

Dated this the 28th day of March, 2007.

JUDGMENT

The petitioners herein, originally entered in service as High School Assistants in Sanskrit. After the introduction of Higher Secondary Courses, they were appointed by transfer as HSST(Junior) on various dates. The main complaint raised in the Writ Petition is that the petitioners were entitled to be appointed as HSST (Senior) and the denial of said entitlement is not justified. It is also contended that persons who are juniors to them in other subjects were able to get appointment as HSST (Senior) and promotion as Principals and petitioners alone had to contend themselves with a posting as HSST (Junior).

2. The petitioner in W.P.(C).No. 27518/05 has got a further contention that being a holder of P.Hd, she was entitled to be granted two advance increments which are being granted to Lecturers working in Colleges.

3. The respondents have filed counter affidavit traversing the contentions of the petitioners. Today when the case is came up for hearing, the petitioners in W.P.(C).No.27627/05 have filed I.A.No.4794/07, seeking for appropriate direction to the second respondent to appoint them against identified posts of HSST(Senior) in Sanskrit with effect from the date of

appointment. In the affidavit, accompanying the I.A., petitioners have stated details of eight posts of Senior higher Secondary School Teacher (Sanskrit) in various schools which are vacant. They are,

1. Govt. H.S.S. for Girls Ernakulam -1
2. Govt. Sanskrit H.S.S., Tripunithura - 1
3. Govt. H.S.S., Sasthamcotta -1

   (On 31.3.2007 Retirement vacancies are arising in following schools).
4. Govt. H.S.S., Edappally - 1
5. Govt. Sanskrit H.S.S, Tripunithura -1
6. Govt. H.S.S., Ayyankoikkal, Kollam - 1
7. G.M.B.H.S.S. Haripad, Alappuzha - 1
8. Govt. H.S.S. Chelakkara - 1

According to the petitioners, so far only two persons are appointed and of that one Mr. Sivarama Pillai is going to retire on 31.3.2007. Thus, there will be again seven vacancies remained to be filled up. The petitioners assert that in the seniority list prepared by the second respondent on 30.9.2006, there are only 10 persons and all the three petitioners find their name in the seniority list also.

4. It is also pointed out that first petitioner in W.P.(C).No.27267/05 is to retire from service on 31.5.2007.

5. In the light of the said averments of the petitioners, it is for the second respondent to consider them for appointment by transfer as HSST (Senior) in accordance with the Special Rules. The second respondent will have to consider the eligibility in accordance with the seniority list also which is in force now. The relevant Special Rule is Kerala Higher Secondary Education State Service Rules, 2001. Sub Rule 3(2) provides for method of appointment of HSST(Senior) and the first method is by transfer from Higher Secondary School Teacher (Junior) in the subject concerned. and only in the absence of qualified hands under Clause (I) above, the vacancies shall be apportioned in the ratio of 1:3 between appointment by transfer and direct recruitment. Therefore if persons are available for appointment by transfer, the said method will have to be resorted by the authority concerned. If the petitioners files a detailed representation showing their claim for appointment even from an anterior date, as claimed herein, within a period of two weeks from today, the second respondent will consider the same and pass orders on the merits of the representation based on the relevant materials, the petitioners propose to rely upon to establish their claim, within a period of one month from the date of receipt of the representations. With the above directions, the Writ Petitions are disposed of.

T.R.RAMACHANDRAN NAIR
JUDGE

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